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10/634,445	08/05/2003	Betty Birnbaum	1067-001	8287

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EXAMINER	
GUIDOTTI, LAURA COLE	
ART UNIT	**PAPER NUMBER**
1744	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/634,445	BIRNBAUM, BETTY	
	Examiner	Art Unit	
	Laura C. Guidotti	1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 February 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 3-25* is/are pending in the application.

4a) Of the above claim(s) *6-22* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-5,23 and 25* is/are rejected.

7)☒ Claim(s) *24* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *28 March 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☒ Other: *Attachment A, Attachment B*.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 25 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 25, it is unclear to the Examiner as to what is meant by "...edge...projected onto a plane situated in a facing relationship..." The Examiner is unsure as to what a "facing relationship" is, however it is unclear as to what projection of the edge is meant to "appear straight."

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1, 3, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson, US 3,178,747 in view of Killins, US D402,514 (see also Attachment A) and Darrin, US 1,211,098.

Peterson discloses the claimed invention including a flexible member (2; Column 1 Line 52 to Column 2 Line 3) formed with a plurality of undulations (20, 22, 24; Column 2 Lines 14-16) and a plurality of edges defined by the shape of the member and the curvature of the undulations (4, 6, 8, 10). The plurality of edges (4, 6, 8, and 10) do not include an edge having a S-shaped curvature, a rounded edge, or edges having

sinuous curvature, or a sharp tip formed at an intersection of a straight edge and an end of the fingernail edge making an acute angle. Regarding claim 3, Peterson further includes a lip (the "lip" edge is at "6" facing downwardly as shown in Figure 3).

Killins discloses a cleaning tool that is for universal radius forming and cleaning (see Title). The cleaning tool of Killins includes a straight edge (see bottommost edge as shown in Figure 3, Attachment A), a fingernail edge intersecting the straight edge having an S-shape and sinuous curvature and intersects the straight edge at a first end of the S-shape (see rightmost edge as shown in Figure 3, Attachment A), a rounded edge disposed on a side of the member opposite the straight edge (see uppermost edge as shown in Figure 3, Attachment A) and having an end continuous with the second end of the S-shape of the fingernail edge (see Figure 3, the edge remains continuous throughout, Attachment A), and a further edge having a sinuous curvature disposed on a side member opposite the fingernail edge (see leftmost edge as shown in Figure 3), wherein the S-shape of the fingernail edge proceeds inwardly directly from the first end toward the further edge at an acute angle from the straight edge to a valley and then proceeds outwardly away from the further edge to a rounded peak, the rounded peak including a first rounded portion proceeding outwardly away from the further edge to a peak and a second rounded portion continuous with the first rounded portion, proceeding from the peak inwardly toward the further edge and then continuously to the second end of the fingernail edge (see Attachment A for full visual explanation), wherein there is a sharp tip formed at the intersection of the straight edge and an end of the S-shape of the fingernail edge (see corner formed on rightmost edge

as shown in Figure 3, Attachment A). Regarding claim 25, the further edge appears straight when projected onto a plane (as portions of the further edge appear straight in Figure 3 or in Figure 2.) Killins does not disclose that where the fingernail edge intersects a straight edge at an end of the S-shape to form a sharp tip (see Figure 3, Attachment A) that it makes an acute angle with the straight edge.

Darrin teaches a scraper tool that has a plurality of edges including a straight edge (2) and a fingernail edge intersecting the straight edge (including edges 4, 5, 9), the fingernail edge having a vague "S-shape" (see Figure 4) and intersects the straight edge at an end of S-shape making an acute angle with the straight edge (12), wherein a sharp tip is formed by the intersection of the straight edge and the end of the S-shape of the fingernail edge making an acute angle with the straight edge (12, C). Darrin teaches a scraper that is deigned to have an angle for every corner and an edge for every surface of a dish (Page 1 Lines 98-100).

It would have been obvious for one of ordinary skill in the art to modify the generally straight edges of Peterson for the varying edges that Killins teaches, so that a user may be capable of cleaning or scraping objects having various curvatures or radii and further it would have been obvious for one of ordinary skill in the art to further modify Peterson and Killins so that the fingernail edge intersects the straight edge making an acute angle with the straight edge, wherein the sharp tip is formed by the intersection making an acute angle with the straight edge, as Darrin teaches, in order to provide a specific designed edge shape appropriate for scraping a plate.

3. Claims 1, 3, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Killins, US D402,514 (see also Attachment A) in view of Darrin, US 1,211,098, and Peterson, US 3,178,747.

Killins, Peterson, and Darrin disclose all elements above. However, Killins and Darrin do not disclose that the tool is flexible or that it is formed with a plurality of undulations. Peterson further discloses that the device "2" is flexible and has an improved gripping manner so that the user is able to position the scraper more effectively against a device being cleaned (Column 1 Lines 27-33, Column 2 Lines 16-18). Also, neither Killins or Peterson disclose that the fingernail edge intersects a straight edge at an end of the S-shape making an acute angle with the straight edge and that the sharp tip is formed by the intersection of the straight edge and the end of the S-shape of the fingernail edge making an acute angle with the straight edge.

It would have been obvious for one of ordinary skill in the art to modify the edges of Killins so that the fingernail edge intersects the straight edge making an acute angle with the straight edge, wherein a sharp tip is formed by the intersection making an acute angle with the straight edge, as Darrin teaches, in order to provide a specific designed edge shape appropriate for scraping a plate and further it would have been obvious for one of ordinary skill in the art to modify the cleaning tool body of Killins and Darrin to be made of a flexible material having undulations, as Peterson teaches, so that a user can grip and position the cleaning scraper more effectively against a surface that is to be cleaned.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Killins, US D402,514, Darrin, US 1,211,098, and Peterson, US 3,178,747 as applied to Claim 3, in view of Sheridan, US 1,538,521.

Killins, Darrin, and Peterson disclose all elements above, however do not include a lower surface having a roughened region disposed along an undulation. The device of Peterson includes an upper and a lower surface (see uppermost and lowermost portions as displayed in Figure 2).

Sheridan teaches a scraper for cooking utensils that has an undulation (formed at portion "11") and an upper surface and lower surface (see uppermost and lowermost surfaces as shown in Figures 2-3), wherein the lower surface has a roughened region disposed along an undulation (12; Page 1 Lines 73-74) so that the device can be held by a user more steadily (Page 1 Lines 77-81).

It would have been obvious for one of ordinary skill in the art to modify an undulation of the device of Killins, Darrin, and Peterson to include a roughened region, as Sheridan teaches, so that a user may hold the cleaning device more steadily.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Killins, US D402,514, Darrin, US 1,211,098, Peterson, US 3,178,747, and Sheridan, US 1,538,521 as applied to Claim 4, in view of Houghton, US 614,810.

Killins, Darrin, Peterson, and Sheridan disclose all elements above, however do not disclose a rounded edge that is sharpened.

Houghton also discloses all elements above, including side edges that are sharpened (Figure 3; Page 1 Lines 42-44). Figures 2-3 of Houghton display that all of the edges are sharpened (except portions which are toothed).

It would have been obvious for one of ordinary skill in the art to modify the rounded edge of the device of Killins, Darrin, Peterson, and Sheridan to be sharpened, as Houghton teaches, in order to scrape and remove debris from surfaces.

6. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Killins, US D402,514, Darrin, US 1,211,098, and Peterson, US 3,178,747 as applied to Claim 1, in view of Meredith, US 1,388,282.

Killins, Darrin, and Peterson disclose all elements above, however do not disclose that the member has a thickness which varies so as to impart flexibility.

Meredith teaches a flexible cooking vessel cleaner wherein the centermost portion is thicker so that there is an increased stiffness for efficient cleaning (Lines 45-49).

It would have been obvious for one of ordinary skill in the art to modify the member of Killins, Darrin, and Peterson so that there is a varied thickness, as Meredith teaches, in order to provide a stiffer section that beneficially makes cleaning more efficient.

7. Claims 1, 3, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson, US 3,178,747 in view of Lawrence, US 1,192,910 (see also Attachment B).

Peterson discloses the claimed invention including a flexible member (2; Column 1 Line 52 to Column 2 Line 3) formed with a plurality of undulations (20, 22, 24; Column 2 Lines 14-16) and a plurality of edges defined by the shape of the member and the curvature of the undulations (4, 6, 8, 10). The plurality of edges (4, 6, 8, and 10) do not include an edge having a S-shaped curvature, a rounded edge, or edges having sinuous curvature, or a sharp tip formed at an intersection of a straight edge and an end of the fingernail edge making an acute angle. Regarding claim 3, Peterson further includes a lip (the "lip" edge is at "6" facing downwardly as shown in Figure 3).

Lawrence discloses a cleaning tool that is for cleaning cooking tools or dishes (Page 1 Lines 15-20). The cleaning tool of Lawrence includes a straight edge (see bottommost edge as shown in Figure 1, Attachment B), a fingernail edge intersecting the straight edge having an S-shape and sinuous curvature and intersects the straight edge at a first end of the S-shape (see rightmost edge as shown in Figure 1, Attachment B), a rounded edge disposed on a side of the member opposite the straight edge (see uppermost edge as shown in Figure 1, Attachment B) and having an end continuous with the second end of the S-shape of the fingernail edge (see Figure 1, the edge remains continuous throughout, Attachment B), and a further edge having a sinuous curvature disposed on a side member opposite the fingernail edge (see leftmost edge as shown in Figure 1 and Attachment B), wherein the S-shape of the fingernail edge proceeds inwardly directly from the first end toward the further edge at an acute angle from the straight edge to a valley and then proceeds outwardly away from the further edge to a rounded peak, the rounded peak including a first rounded

portion proceeding outwardly away from the further edge to a peak and a second rounded portion continuous with the first rounded portion, proceeding from the peak inwardly toward the further edge and then continuously to the second end of the fingernail edge (see Attachment B for full visual explanation), wherein there is a sharp tip formed by the intersection of the straight edge and the first end of the S-shape of the fingernail edge making an acute angle with the straight edge (see corner formed on right bottommost corner as shown in Figure 1, Attachment B). Regarding claim 25, the further edge appears straight when projected onto a plane (as portions of the further edge appear straight in Figure 1 or in Figure 2.)

It would have been obvious for one of ordinary skill in the art to modify the generally straight edges of Peterson for the varying edges that Lawrence teaches, so that a user may be capable of cleaning or scraping cooking utensils or dishes having various curvatures or radii.

8. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson, US 3,178,747 and Lawrence, US 1,192,910 (see also Attachment B) as applied to Claim 3, in view of Sheridan, US 1,538,521.

Peterson and Lawrence disclose all elements above, however do not include a lower surface having a roughened region disposed along an undulation. The device of both Peterson and Lawrence includes an upper and a lower surface (see uppermost and lowermost portions as displayed in Figure 2 of Peterson and Figure 2 of Lawrence). The rounded edge of Lawrence is sharpened (sharpened in two locations, see Figures 1-2, Attachment B).

Sheridan teaches a scraper for cooking utensils that has an undulation (formed at portion "11") and an upper surface and lower surface (see uppermost and lowermost surfaces as shown in Figures 2-3), wherein the lower surface has a roughened region disposed along an undulation (12; Page 1 Lines 73-74) so that the device can be held by a user more steadily (Page 1 Lines 77-81).

It would have been obvious for one of ordinary skill in the art to modify an undulation of the device of Peterson and Lawrence to include a roughened region, as Sheridan teaches, so that a user may hold the cleaning device more steadily.

9. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson, US 3,178,747 and Lawrence, US 1,192,910 (see also Attachment B) as applied to Claim 1, in view of Meredith, US 1,388,282.

Peterson and Lawrence disclose all elements above, however do not disclose that the member has a thickness that varies so as to impart flexibility.

Meredith teaches a flexible cooking vessel cleaner wherein the centermost portion is thicker so that there is an increased stiffness for efficient cleaning (Lines 45-49).

It would have been obvious for one of ordinary skill in the art to modify the member of Peterson and Lawrence so that there is a varied thickness, as Meredith teaches, in order to provide a stiffer section that beneficially makes cleaning more efficient.

Allowable Subject Matter

10. Claim is 24 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: None of the prior art made of record discloses all elements of claimed invention, particularly that a scraper member having undulations would require the undulations to include valley portions and peak portions wherein the thickness of the valley portions is greater than the thickness of the peak portions. While Peterson US 3,178,747 teaches a scraper member comprising undulations, it is described and shown in the Figures is having as to what appears to be a constant thickness. Meredith US 1,388,282 teaches a varying thickness to impart flexibility, however does not include undulations, and particularly specifying valley portions having a thickness greater than that of peak portions.

Response to Arguments

11. Applicant's arguments filed 26 February 2007 have been fully considered but they are not persuasive.

As previously stated above, in Killins, the fingernail edge *proceeds inwardly directly from the first end* of the fingernail edge toward the further edge *at an acute angle*. In Attachment A (attached to present Office Action), if a reader follows the fingernail edge of Figure 3, the fingernail edge proceeds inwardly directly from the first end (as it approaches what is marked "valley") toward the further edge at an acute angle (the acute angle is particularly pointed out by phantom lines in Attachment A, it is

the angle between the straight edge and a point, or various points, along the fingernail edge as it proceeds inwardly from the first end approaching the "valley"). The Examiner hopes that this clarifies the rejection made in view of Killins.

The Examiner is confused by the Applicant's assertions as to the combination of Killins and Darrin, in particular to the attached Figure submitted with the Remarks. As stated above, Killins teaches a cleaning tool having the abovementioned edges, however does not disclose that where the fingernail edge intersects a straight edge at an end of the S-shape to form a sharp tip (see Figure 3, Attachment A), that it makes an acute angle with the straight edge. Darrin teaches a scraper tool that has a plurality of edges wherein a sharp tip is formed by the intersection of the straight edge and the end of the S-shape of the fingernail edge making an acute angle with the straight edge (12, C). Also, Darrin teaches a scraper that is deigned to have an angle for every corner and an edge for every surface of a dish (Page 1 Lines 98-100). It would have been obvious to modify Peterson and Killins so that the fingernail edge intersects the straight edge making an acute angle with the straight edge, wherein the sharp tip is formed by the intersection making an acute angle with the straight edge, as Darrin teaches, in order to provide a specific designed edge shape appropriate for scraping a plate. It is not clear to the Examiner how superimposing the images of Killins and Darrin present an argument as to any unobviousness.

Regarding the Applicant's contentions that Killins (or the cited references) "do not disclose or suggest the rounded peak portion of the fingernail edge", the Examiner has further clarified her interpretation to the Applicant by presenting Attachment A.

Attachment A particularly points out the rounded peak portion of the fingernail edge that includes a first rounded portion proceeding outwardly away from the further edge to a peak and a second rounded portion continuous with the first rounded portion proceeding from the peak inwardly toward the further edge and then continuously to the second end of the fingernail edge. If a viewer regarding Figure 3 of Attachment A holds a straight edge vertically alongside the fingernail edge, the second rounded portion proceeds from the peak inwardly toward the further edge (Examiner admits that it proceeds inwardly only slightly, but it is clearly evident in Figure 3).

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Guidotti whose telephone number is (571) 272-1272. The examiner can normally be reached on Monday-Thursday, 7:30am - 5pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Laura C Guidotti
Patent Examiner
Art Unit 1744

lcg

GLADYS JP CORCORAN
SUPERVISORY PATENT EXAMINER

Attachment A

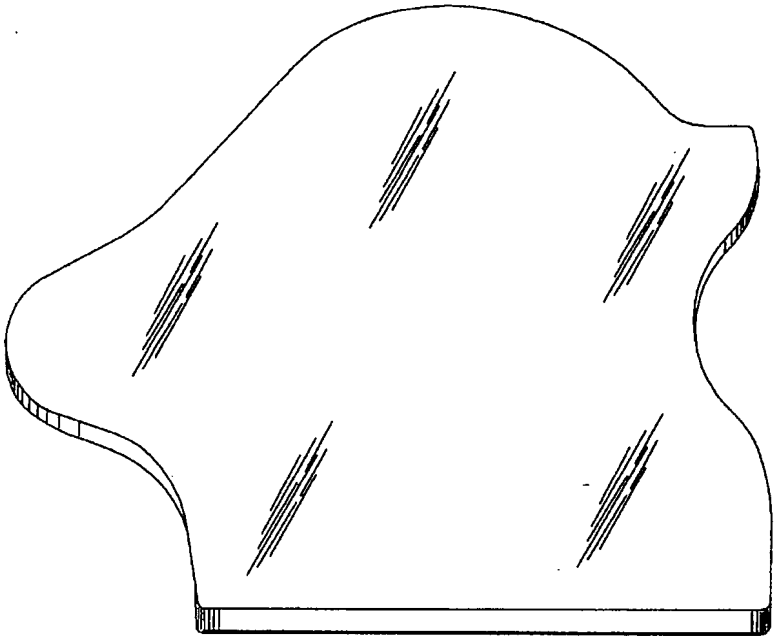

FIG. 1

FIG. 2

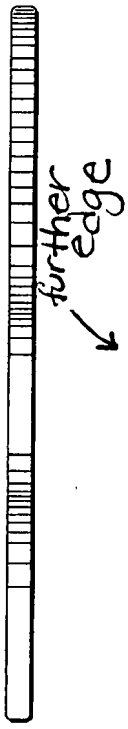

FIG. 3

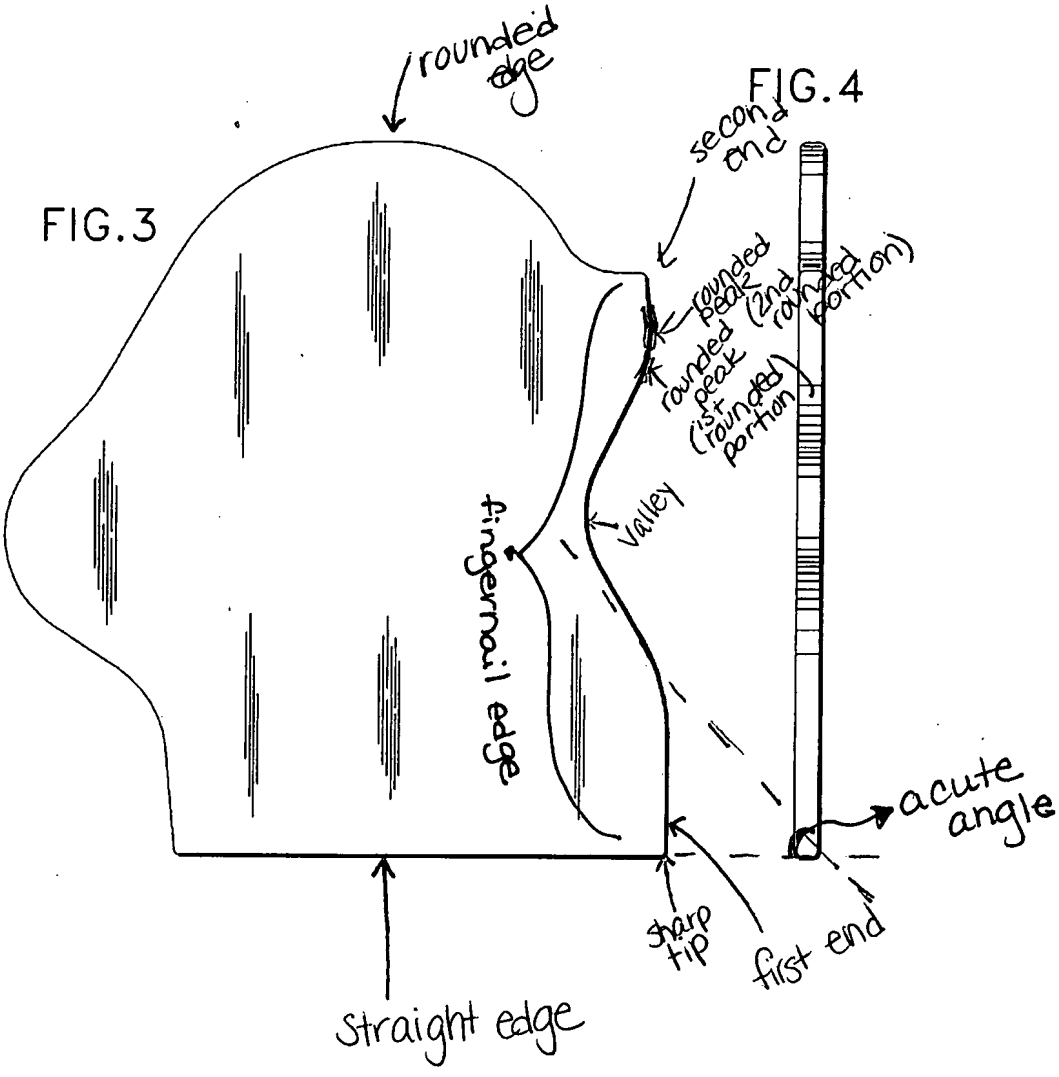

FIG. 4

Attachment B

I. LAWRENCE.
UTENSIL SCRAPER.
APPLICATION FILED JUNE 7, 1915.

1,192,910. Patented Aug. 1, 1916.

sharpened rounded edge

Fig. I.

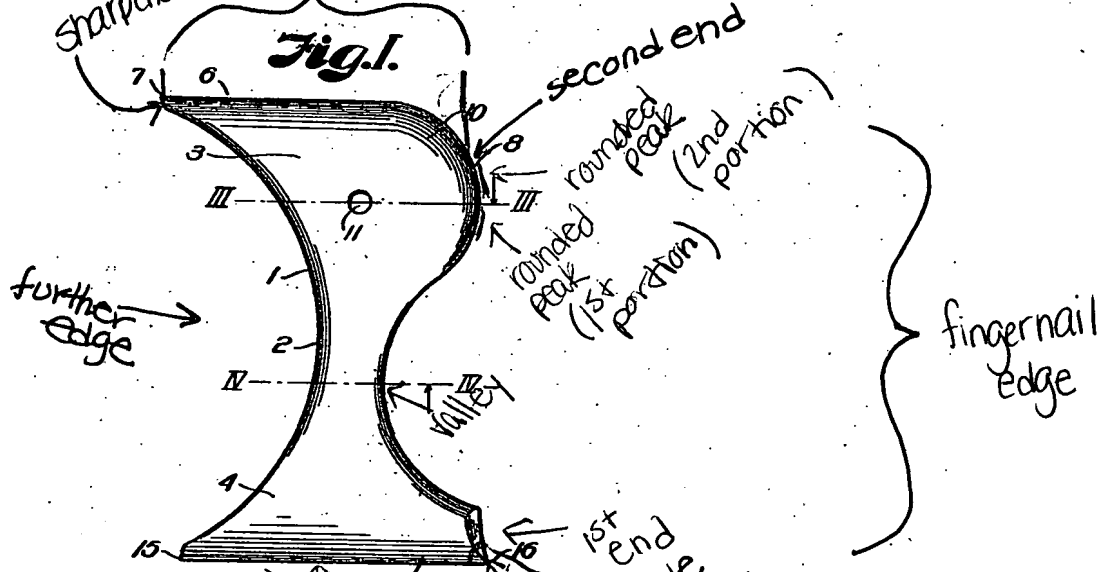

Fig. II.

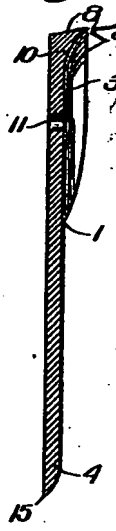

Fig. III.

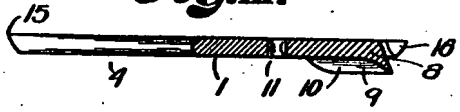

Fig. IV.

WITNESSES:
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